

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DEREK L. POWERS,

Plaintiff,

**PROPOSED JOINT  
PRETRIAL ORDER**

-against-

04 CIV 2246

CITY OF NEW YORK, NEW YORK CITY POLICE  
DEPARTMENT, SALVATORE MAGADDINO, and  
ALBERT W. GIRIMONTE,

Defendants.  
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Having conferred among themselves and with the Court pursuant to Rule 16, Federal Rules of Civil Procedure, the parties adopt the following statements, directions, and agreements as the Joint Pretrial Order:

I. Appearances

For Plaintiff:	Stephen C. Jackson, Esq.  Empire State Building 350 Fifth Ave., Suite-2310 New York, New York 10118
For Defendant:	Phyllis Calistro, Esq. Senior Counsel 100 Church Street New York, New York 10007

II. Jurisdiction and Venue

42 U.S.C. § 200a-6(a) and 28 U.S.C. §§ 1331 and 1343 (a)(4).

III. Pleadings

The parties agree that the trial of this action shall be based upon this order and upon the pleadings as amended.

IV. Trial Information

A. Plaintiff estimates that he needs one to five days to present his case. Defendants estimate they will need two days.

B. A trial assignment will be made by the Court at a future date.

V. Stipulated Facts

A. Plaintiff is a male African-American descent.

B. Plaintiff was employed by the defendants in 1982 as a Police Officer.

C. In or about March, 2000 plaintiff was assigned by defendants as Commanding Officer, Brooklyn Special Victims Squad.

VI Exhibits to be Offered:

A. Complaint

B. Defendants' Answer

C. Plaintiffs Complaint filed the New York City Commission of Human Rights

D. Plaintiffs Complaint filed with the Equal Employment Opportunity Commission.

E. Plaintiffs Personnel file

F. Plaintiffs Employment Evaluations

G. Detective Borough of Brooklyn Telephone Directories

H. Quality Assurance Report dated February 19, 2002

I. Leave of Absence Report dated August 13, 2002

J. Hand written notes of defendants relating to plaintiffs Compstat performance

K. McGinn memo to Chief of Detectives dated August 8, 2002

- L. Handwritten memo from defendant Girimonte dated August 28, 2002
- M. Quality Assurance Report dated June 26, 2002
- N. Magaddino Interim Evaluation of plaintiff dated 9/4/02
- O. Memo from Quality Assurance Division dated January 16, 2002
- P. P memo to Commanding Officer re Recommendation of Unit Citation dated May 1, 2002
- Q. Handwritten notes by defendants re plaintiff's transfer to Night Watch
- R. Monthly OT/ Arrest Activity 2002 to 2004
- S. Performance Evaluation of Plaintiff dated January 15, 1999, by Captain Timothy Collins.
- T. Quality Assurance Evaluation dated May 9, 2001.
- U. Response from Plaintiff to QAD May 9, 2001 evaluation, dated May 31, 2001.
- V. Videotape of PBBS Compstat meeting, dated 8/8/02.
- W. Memo dated January 19, 1999 from Chief Ward Re: Commanding Officer of 72 Detective Squad.
- X. Memo dated January 14, 1999 from Chief Anemone Re: Commanding Officer, 72 Precinct Detective Squad.
- Y. Annotations written by Maggadino re: plaintiff's 9/4/02 Interim Evaluation

X. Depositions

At trial, the parties will offer the following deposition testimony;

- A. Deposition of plaintiff
- B. Deposition of defendant Girimonte

C. Deposition of defendant Magaddino

XI. Witnesses

Unless otherwise noted, all witnesses may be reached through the NYPD 1 Police Plaza, N.Y.C or the NYC Law Department, 100 Church Street NYC 10007.

- Plaintiff

- Retired Deputy Chief Judy McGinn will testify as to plaintiff's performance and reasons for his transfer out of the Special Victims Squad.

- Honorable Rudolph Giuliani

- Inspector Robert Wheeler

- Captain Salvatore Magaddino, a defendant, will testify as to the allegations against him in the complaint, as well as generally about plaintiff's performance.

- Inspector Albert W. Girimonte will testify as to the allegations against him in the complaint, as well as generally about plaintiff's performance.

- Former Police Commissioner Kerik

- Detective Phyllis Johnson

- Chief William Allee will testify as to plaintiff's unsatisfactory performance as CO of Special Victims.

- Inspector John Gianelli

- Chief Joseph Esposito

- Detective Woody Simons

- Detective Steve Litwin

- Sergeant Jeffrey Anderson

- Sergeant William Hein

- Captain Timothy Collins

- Chief James Ward
- Chief William Taylor
- Police Commissioner Raymond Kelly
- Police Commissioner of Nassau County James Lawrence (Former chief of personnel NYPD)

- First Deputy Commissioner Joseph Dunn
- First Deputy Commissioner David Scott
- Deputy Commissioner Joyce Stevens
- Assistant Chief Benjamin Foster
- Assistant Chief Edward Cannon
- Assistant Chief Joseph Kaneen
- Deputy Chef James Secreto
- Inspector Robert Wheeler
- Deputy Inspector Vincent DiDonato
- Deputy Inspector Timothy Person
- Captain Val Nieves
- Captain James Pisaniello
- Captain William Monteleone
- Captain Ron Facciponti
- Captain Charles P. O'Connor
- Captain Laurie Unick
- Lieutenant Edward Alonge
- Lieutenant Robert Casazza

- Lieutenant Jerry Jacobs
- Lieutenant Frank Diamond
- Sergeant Steven Giuntini
- Sergeant Lorraine McKenna
- Detective Charlie Hawkins
- Detective Kathy Lynch
- Detective Patricia Samuel
- Detective Edward Narvez
- PAA Carmen Williams
- Brooklyn District Attorneys Office- Bureau Chief Diana Rodriguez
- Brooklyn District Attorneys Office – Bureau Chief Ronny Jaus
- Chief McCarthy will testify re plaintiff's unsatisfactory performance at the

8/8/02 Compstat meeting.

Chief Peter Cassidy will testify regarding the Evaluations performed of plaintiff's command by QAD.

### XIII. Type of Trial

Jury trial.

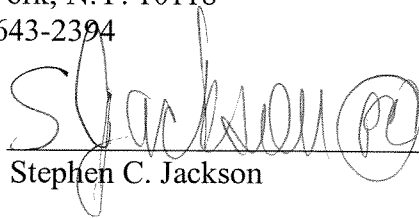
XIV. Modification of Order

To present manifest injustice or upon motion for good cause shown, at the trial of this action or prior thereto the Court may modify this Pretrial Order upon such conditions as the Court deems just and proper.

Dated: New York, New York  
February 6, 2006

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Attorney For Plaintiff  
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New York, N.Y. 10118  
(212) 643-2394

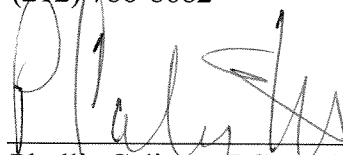
By:



Stephen C. Jackson

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(212) 788-8682

By:



Phyllis Calistro (PC5527)  
Senior Counsel